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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/605,989  | 11/12/2003  | Keith D. Foote       | 71486-0061          | 2988             |
| 20915   | 7590        | 10/04/2005           | EXAMINER            |                  |
| MCGARRY BAIR PC<br>171 MONROE AVENUE, N.W.<br>SUITE 600<br>GRAND RAPIDS, MI 49503 |             |                      |                     | SHAFER, RICKY D  |
|   |             | ART UNIT             |                     | PAPER NUMBER     |
|   |             |                      |                     | 2872             |

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|------------------------------|------------------------|---------------------|
|                              | 10/605,989             | FOOTE ET AL.        |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Ricky D. Shafer        | 2872                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 26 July 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-36 is/are pending in the application.  
4a) Of the above claim(s) 6,7,24 and 25 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-5,8-23 and 26-36 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 12 November 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date .  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

1. Applicant's election with traverse of species "A", depicted by Fig. 2, in the reply filed on 07/26/2005 is acknowledged. The traversal is on the ground(s) that the species are drawn to a common inventive concept. This is not found persuasive because the restriction requirement set forth in the communication mailed on 06/29/2005 is based on the structural differences between the species and not on their similarities. Continued search and examination of claim(s) to a nonelected species including claims have substantially different structural limitations is a *prima facie* showing of burden. Applicant may overcome the requirement for restriction by presenting an allowable linking claim (see MPEP 809.04) or by providing a clear admission on the record that the claim(s) drawn to a given non-elected species is not patentably distinct from the elected invention. See MPEP 803.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 6, 7, 24 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/26/2005.

3. Claims 17 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 17 and 35, the use of the language "the tilt actuator" lacks proper antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 12, 13, 16, 18, 19, 30, 31, 34 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Polzer et al ('778).

Polzer et al discloses a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle, the mirror system comprising a reflective element assembly (9, 9.9) including a reflective surface (9.9) for providing a reflection image, and a mounting panel (9) for mounting the reflective surface thereto; a mounting frame (5.1) for mounting the reflective element assembly to the motor vehicle; a mirror plate (7) and an interlocking fastener assembly for removably attaching a first one of the reflective element assembly to the mounting frame comprising a first array of interlocking fasteners [(5.3,5.8), (7.4,7.8)] attached to the mounting frame and a second array of interlocking fasteners [(9.3, 9.5), (7.4,7.8)] attached to the first one of the reflective element assembly and adapted for interlocking communication with the first array, wherein the second array is attached to the mounting panel/mirror plate and wherein at least one of the first array and the second array comprises a regularly-spaced plurality of fastening elements (9.3), each fastening element comprising an elongated cylindrical shaft terminating in an expanded, mushroom-shaped head.

Note figures 1-4 along with the associated description thereof.

6. Claims 1, 8-12, 14, 17, 19, 26-30, 32 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Toshiaki et al ('214).

Toshiaki et al discloses a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle, the mirror system comprising a

reflective element assembly (13,15) including a reflective surface (13) for providing a reflection image, and a mounting panel (15) for mounting the reflective surface thereto; a mounting frame (17,18,19,75) for mounting the reflective element assembly to the motor vehicle; a tilt actuator (12) for selectively vertically and horizontally tilting the reflective element assembly in order to adjust a rearward field of vision provided thereby and comprises a mounting/base plate (17) pivotally attached thereto and an interlocking fastener assembly for removably attaching a first one of the reflective element assembly to the mounting frame comprising a first array of interlocking fasteners (65) attached to the mounting/base plate and a second array of interlocking fasteners (56) attached to the first one of the reflective element assembly and adapted for interlocking communication with the first array. Note figures 1-4 and 7-10 along with the associated description thereof.

7. Claims 1-3, 8-17, 19-21 and 26-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Ozaki ('408).

Ozaki discloses a motor vehicle comprising at least one mirror system for providing a rearward view to the operator of the motor vehicle, the mirror system comprising a reflective element assembly (13,15) including a reflective surface (13) for providing a reflection image, and a mounting panel (15) for mounting the reflective surface thereto; a mirror plate (16) attached to the mounting panel, a mounting frame (17,18,19) for mounting the reflective element assembly to the motor vehicle; a tilt actuator (12) for selectively vertically and horizontally tilting the reflective element assembly in order to adjust a rearward field of vision provided thereby and comprises a mounting/base plate (17) pivotally attached thereto and an interlocking fastener assembly for removably attaching a first one of the reflective element assembly to the

mounting frame comprising a first array of interlocking fasteners (58) attached to the mounting/base plate and a second array of interlocking fasteners (56,57) attached to the mounting panel/mirror plate and adapted for interlocking communication with the first array.

Note figures 1-19B along with the associated description thereof.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4, 5, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozaki ('408).

Ozaki discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the mounting panel comprises a thermoplastic material or gas-injected plastic material having a plurality of microscopic voids.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify plastic material of the mounting panel of Ozaki to include a thermoplastic material or gas-injected plastic material having a plurality of microscopic voids, as is well known in the art, since it has been held to be within the general skill of a worker to select a known material on the basis of its suitability for the intended use and purpose of obtaining a degree of resiliency. Note *In re Leskin*, 125 USPQ 416.

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10. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The mounting frame lacks proper antecedent basis..

11. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference numerals 43 and 45 of the language “the interlocking mounting details 42-46”, disclosed in paragraph 0028, lines 7-8 of the specification has not been illustrated. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

September 28, 2005

*Ricky D. Shafer*  
RICKY D. SHAFER  
PATENT EXAMINER  
ART UNIT 2872